

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: July 11, 2002

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA02-0059 for Coastal Development Permit and Variance.

PROPOSAL: The applicant requests approval of a Coastal Development Permit to construct a new 765 square feet, second story addition (and other remodeling additions) on an existing 2,137 square feet one-story single-family dwelling. A rear yard setback variance is requested to permit new construction to be located five (5) feet from the rear property line.

LOCATION: In the community of Emerald Bay, ocean side of Coast Highway, at 34 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

APPLICANT: Scott and Jill Reid

STAFF William V. Melton, Project Manager

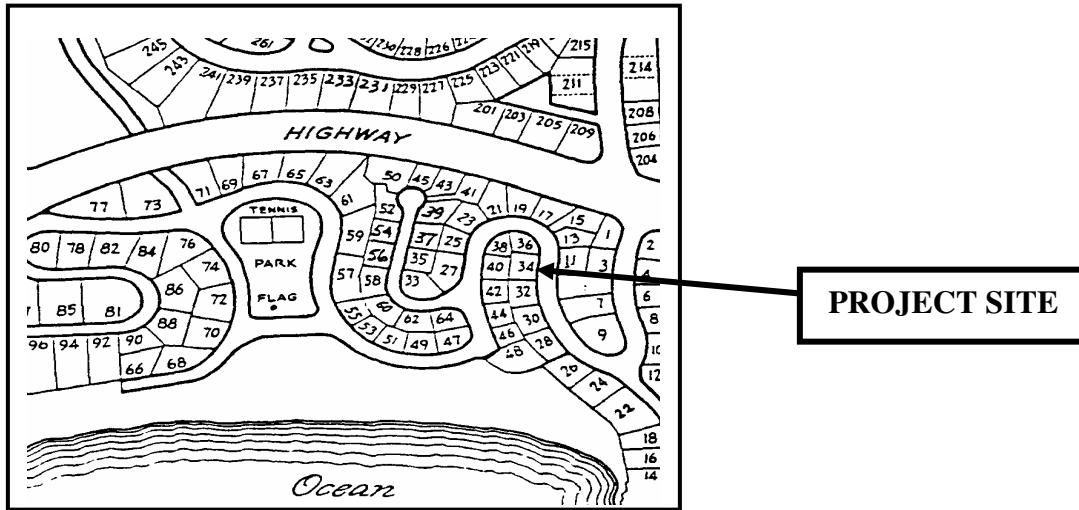
CONTACT: Phone: (714) 834-2541 FAX: (714) 667-8344

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA02-0059 for Coastal Development Permit and Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The project site is level, rectangular in shape, measuring approximately 63 feet wide by 55 feet deep with an area of 3,473 square feet. The site is classified under Zoning Code Section 7-9-128 "Exemptions to Building Lines Chart" as a *shallow building site* with special front and rear setbacks. The front and rear required setbacks for this lot are calculated at 15 percent of the average lot depth, which is 8.25 feet. The site is located in an area of similar sized small lots (see map on next page). The site is developed with a one-story single-family dwelling over a basement level with a front setback of 6.0 feet and a rear setback of 5.0 feet. The existing two-car garage is setback 5 feet from the edge of the street. Variance V4000 was approved in 1960 establishing the front setbacks.

As noted above, the applicant proposes to add a 765 square foot second story addition to the house. This addition, together with other proposed modifications, increases the total square footage of the house from 2,137 to 2,945 square feet, or an increase of approximately 35 percent. The site is the CD "Coastal Development" District, which requires approval of a Coastal Development Permit for additions to single-family dwellings located between the ocean and the first public road that exceed 10 percent of the existing square footage.



SURROUNDING LAND USE:

The project site and all surrounding properties are zoned R1 "Single-family Residence" District with a CD "Coastal Development" District overlay, and developed with single-family dwellings (see photo below). Emerald Bay also has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 "Coastal Development" District. In general, property owners are required to obtain approval of a Coastal Development prior to demolishing dwelling or making large additions to an existing residence and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway are not subject to the CD regulation and are not subject to obtaining a Coastal Development Permit for new construction. The following air photo depicts the surrounding land use.



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site and all residents within 100 feet, as required by Zoning Code Section 7-9-118. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to County Divisions and the Emerald Bay Community Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The proposal has been reviewed and was approved by the Emerald Bay Community Association Board of Directors on May 7, 2002.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 5, minor alterations in land use limitations such as setback variance and Class 1, repair or minor alteration of existing structures or facilities) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

As shown on the map on page 2 of this report, the subject site is part of an area of Emerald Bay containing many very small lots. These lots are part of Tract 940, recorded in 1929. Nearly all the lots in this tract have one or more variances approved for front and rear setbacks. As mentioned previously, Variance V4000 approved a front setback of 6 feet. The site plan submitted for Variance V4000 shows the dwelling with an existing rear setback of 5 feet and the proposed garage setback of 5 feet from the street.

The subject property is zoned R1 which has a normal required front setback of 20 feet and a rear setback of 25 feet. However, this is defined as a shallow building site, having an average depth of less than 100 feet, and Zoning Code Section 7-9-128.2 provides for reduced front and rear building setbacks. The average depth of this lot is 55 feet and under section 7-9-128.2, the front and rear setback requirement is 15 percent of the average depth, or 8.25 feet. Zoning Code Section 7-9-128.4 further permits the front setback to be determined by averaging the front setback of the two adjoining lots. The average of the front setbacks of the two adjoining lots is 3.5 feet, which is the required front setback for the subject lot. The setback of 7.25 feet for the proposed addition to the front of the dwelling conforms to the setback exemptions under section 7-9-128.4.

Regarding the Coastal Development Permit request, normally an addition to an existing dwelling is exempt from the requirement of obtaining a CDP. However, the site is located in an “appealable area” of the Coastal Zone, where only additions of 10 percent or less area permitted outright. Since this proposed addition is close to 35 percent, a Coastal Development Permit is required. Staff did not identify any coastal zone issues for the proposed second story addition.

Regarding the rear setback, even though the current dwelling maintains a legal setback of 5 feet from the rear property line, Zoning Code Section 7-9-151(b)(3) states: *A nonconforming structure which conforms to use but which does not conform to the development standards, may be added to or enlarged only to the*

extent that such addition or enlargement fully complies with the existing development standards. Since the existing development standard for this site's rear yard setback is 8.25 feet, a variance is required for the proposed setback of 5 feet.

The proposed rear yard setback of 5 feet is typical of the homes in this tract and numerous homes in Emerald Bay. The Emerald Bay CCRs allows setbacks of 5 feet from all property lines. Additionally, the Emerald Bay CCRs has more limiting height restrictions than does the Zoning Code. Because of this conflict in CCRs development standards and the Zoning Code development standards, there are over a thousand approved front and rear yard variances throughout Emerald Bay. While the proposed rear yard setback is identical to the previously approved variance on this lot, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion that the Zoning Administrator is able to make these two special variance findings. The special circumstances for approving the variance requested for this proposal is in Finding No.11 of Appendix A which states that the special circumstances applicable to the subject building site are: *the restrictive Emerald Bay CC&Rs prohibit the applicant from constructing a single-family dwelling that could otherwise be constructed under County's R1 zoning site development regulations applicable to the site; and, the site's small size.* Because the requested rear yard setback variance is identical to the previous variance approved for this lot and typical of previously approved setback variances, staff can support the proposed the rear setback variance and makes a recommendation as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA02-0059 for Coastal Development Permit and Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

WVM

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APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

- 1. Applicant's Letter of Explanation
- 2. Site photos
- 3. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., and Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Dept.

In addition, this project is within the Coastal Zone and is an "appealable development". Approval of an appealable development may be appealed directly to the California Coastal Commission (telephone number 562-560-5071), in compliance with their regulations, without exhausting the County's appeal procedures.